

Amendment Dated: May 6, 2009

Response to Official Action Dated: November 10, 2008

Application Serial No. 10/572,722

REMARKS

Reconsideration of this application is respectfully requested. Applicants believe that consideration of this amendment is proper because they have attempted to comply with every requirement expressly set forth in the previous Office Action dated November 10, 2008 (Paper No. 20081030) and believe the application is now in condition for allowance.

The claims are subject to an Election/Restriction Requirement. Applicant respectfully elects the Group I Invention to claims 30-41 and 43-51 without traverse. Applicant requests that claim 42 be canceled without prejudice as being drawn to a non-elected invention.

The drawings stand objected to for lack of clarity. FIG. 6c has been deleted. Revised FIGs. 6a and 6b have been amended to show the tortuous path of the cable as described in the specification. The paragraph beginning on page 14 at line 16 describes attachment of the cable end 11a to a second anchor or fixed point 12. No new matter has been added to the drawings merely by illustrating information that was included in the application as originally filed. Details of the path are revealed in the description of the invention.

Further, the paragraph beginning at line 6 of page 16 describes a planar bar member 25 having a cable entry port P1 allowing one cable to pass directly there through when the bar member is in a non-cable-gripping orientation 26. This is shown in amended FIG. 6a. No new matter is believed to be included in amended FIG. 6a

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compared to the original disclosure as filed. Amended FIG. 6b shows the bar member rotated through at least 90° to a cable-gripping orientation 27 so that the cable follows a tortuous path as disclosed in the same paragraph on page 16 discussed above. In this configuration, the path of the cable is substantially an S-shape as disclosed on page 15, line 21. Applicants submit that no new matter is taught in FIG. 6b.

It is stated that it is unclear how the cable routing means is configured to form a tortuous path and how the cables extend from the ground through the path and attach to the rail. Forming of a tortuous path is not specifically shown in the drawings. However, the Examiner's attention is respectfully drawn to the paragraph beginning on page 14, line 25 of the specification. Here forming the cables into a "Z" or an "S" shape is discussed. The cables attach to the rail at 11a with bracket 13 shown in Fig. 2B.

As stated in the Brief Description of the Drawings, Figures 6a and 6b are plan views of the cable routing means of Figure 5, one in the non-cable-gripping orientation and one in the cable-gripping orientation. The dashed lines have been removed.

The impact head is defined on page 1, lines 17-20. A skilled reader would understand that the cable routing means is a portion of the terminal end arrangement of a guardrail, i.e. the cable routing means forms part of the impact head of the guardrail. This is also supported in Fig. 1A where the cable routing means 2 is shown on terminal post 7A and the ends of the cables 15 are attached to a sunken post with flares or winged portions 18.

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The dotted lines in Fig. 4 have also been replaced with solid lines for the cables 15 and 15a.

Claims 30-37 stand rejected under 35 U.S.C. § 112, second paragraph. In claims 30-37, the Examiner contends that it is unclear what “configured to form” is intended to set forth.

The Examiner also objects to the term “tortuous” as being unclear. Applicant respectfully traverses this rejection. Paragraphs from page 3, line 12 through page 4, line 2 describe what is meant by a tortuous path. Specifically, the first of these paragraphs states, in part, “[t]he tortuous path may be any path that provides sufficient friction to slow down the movement of the impact head during the vehicle impact.” This statement provides an objective measurement by which a cable path may be compared to determine if it is tortuous. One skilled in the art would understand that a frictional resistance to movement of the cable is one way of dissipating energy from an impact. Specific examples of the tortuous path are provided, such an S or Z shaped turn, turns greater than 90°, at least one 180° turn. The nature of the tortuous path is summarized on page 4, lines 3-6 as follows:

“In some embodiments the cable routing means may be adapted so that in use and during a collision or impact with the impact head, the cable is forced through the cable routing means, where resistance to create

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movement provided by the tortuous cable path substantially facilitates impact energy dissipation.”

Also, the Office Action states that in claims 30, 38 and 42 it is unclear what structure is covered by the term “impact head”. As stated in the last sentence of paragraph 4, the “impact head” includes the terminal end of the guardrail which is first impacted by an errant vehicle. A skilled reader would understand that the cable routing means is a portion of the terminal end arrangement of a guardrail, forming part of the impact head of the guardrail.

Although no formal rejection has been raised, the Examiner asks how the bar member cooperates with the impact head and the cables. The Examiner is referred to Figs. 6A and 6B, and the accompanying text at the two paragraphs beginning at page 15, line 25. The bar member 25 is adapted to distort the cable when the bar member is rotated to form the tortuous path.

Claims 30-37, 43-49 and 51 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Rambaud in U.S. Patent No. 4,730,810. The Office Action contends that Rambaud discloses an impact head configured to form a tortuous path through which a cable can be threaded. Claim 50 was found to be allowable.

Claim 30 has been amended to recite the features of allowable claim 50, and therefore should be found to be allowable. Independent claim 38 has also been amended to feature the impact head of claim 30 and therefore includes subject matter that

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is novel and inventive. New claims 52 and 53 also include all features of original claim 50. Claim 50 is now being canceled as redundant and all claims should now be allowable. Applicant respectfully requests that the rejection be withdrawn and the remaining claims be allowed to issue.

By the above arguments and amendments, Applicant believes that they have complied with all requirements expressly set forth in the pending Office Action. Issuance of a Notice of Allowance on the remaining allowed claims is respectfully requested. Should the Examiner discover there are remaining issues which may be resolved by a telephone interview, he is invited to contact Applicant's undersigned attorney at the telephone number listed below.

If a Petition under 37 C.F.R. §1.136(a) for an extension of time for response is required to make the attached response timely, it is hereby petitioned under 37 C.F.R. §1.136(a) for an extension of time for response in the above-identified application for the period required to make the attached response timely. The

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Commissioner is hereby authorized to charge fees which may be required to this application under 37 C.F.R. §§1.16-1.17, or credit any overpayment, to Deposit Account No. 07-2069.

Respectfully submitted,  
GREER, BURNS & CRAIN, LTD.

/carole a. mickelson/

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